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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,854	10/09/2004	Barton K. Williamson		5853

7590 01/11/2006

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EXAMINER	
KRUER, STEFAN	

ART UNIT	PAPER NUMBER
3654	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/711,854	WILLIAMSON, BARTON K.	
	Examiner	Art Unit	
	Stefan Kruer	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1 - 20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) 16 is/are allowed.

6)☒ Claim(s) 1 - 20 is/are rejected.

7)☒ Claim(s) 7,12,15-17 and 19 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 7, 15 and 16 are objected to because of the following informalities:

- **Re: Claim 7**, "a" in lieu of "an" for "an first portion" and "an second portion" in sub-claims "b" and "d";
- **Re: Claim15**, "an" in lieu of "and" for "...forms and angle of...";
- **Re: Claim 16**, "degree" in lieu of "degrees" should be written for "...not less than 0.5 degrees".

Appropriate correction is required.

Claims 12 and 19 recite the limitation "said" in said "individual components". There is insufficient antecedent basis for this limitation.

Regarding Claims 12, 15 and 17, "threaded aperture" and "aperture" are used interchangeably; therefore, "aperture" will be used for prosecution.

Claim Rejections - 35 USC § 101

Claims 9, 10, 19 and 20 are rejected under 35 U.S.C. 101 because of the claimed apparatus and its method of assembly.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Daugherty (4,987,976).

Re: Claims 1, Daugherty anticipates a:

- Base (22 of structure 12, Fig. 1) having ground traversing means (28);
- Upright support member (30) comprising an elongated, torsionally stiff member (32) extending vertically from said base;
- Carriage (comprising 47, 48, 47H, 48H and 46) slidably mounted to said upright support member along its longitudinal length;
- Load supporting assembly (comprising 42,44, and 46);
- Pulley mechanism (60) including main body and pulley (64, 62);
- Lifting means (50) comprising a cable pulling device (52) that inherently includes a main body and a spool;
- Cable (56) having two tails;
- Cross members (14, 16, 18, 20, 24 and 26)

Re: Claim 2, Daugherty anticipates:

- Cross members (14, 16, 18, 20, 24 and 26) extending in horizontal direction from said base;
- Base provided with means (14S and 16S, Fig.'s 1 and 2 respectively) of connecting horizontal cross member thereto, with base including a mounting point (mid-point where winch brace (58) is attached), whereby cable-pulling device (52) is in turn attached.
- Carriage with a mounting point for attachment of a cable engaging pulley device (70, Fig.'s 15 and 16).

Re: Claim 3, Daugherty anticipates:

- Diagonally disposed support members (19 and 21) oriented in a substantially vertical direction and connecting horizontal cross members with said upright support member (Fig. 1);
- cable engaging pulley device (70) attached to said mounting point.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Mason (3,734,466) and in further view of Cargill, et al (5,806,837) and in of Vassioukevitch (6,742,770).

Re: Sub-claims "a" and "b", though the carriage of Daugherty embodies a sleeve-like construction, the configuration is unique to that of the instant invention, due to the alternate operational means and greater operational height. Mason, however, teaches an alternative to that of Daugherty, whereby a carriage incorporating a sleeve-like construction is disclosed for the relatively shorting lifting height of vehicles. Though appearing to be in a range of the instant invention, the dimensions of the sleeve and support member of Mason are not disclosed. Cargill, though, does teach a carriage (22,24) incorporating a sleeve construction whereby the inner and outer dimensions in comparison with those of the support member (40 and 20) differ within the claimed range. Furthermore, the carriage of Cargill includes a means (120) for securing said carriage into a fixed position relative to said support member. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Daugherty with the teachings of Mason and Cargill for purpose of simplified construction and design in keeping with the relatively short, operational heights as well as the benefits of minimized cost of manufacture and facilitated assembly.

Re: Sub-claims "c" and "d", though Daugherty and Mason disclose a pulley mechanism in addition to their respective cable pulling devices, and Cargill solely utilizes a cable pulley device, neither of the former inventions addresses an ancillary cable arresting means. Vassioukevitch, however, teaches a locking means (33,34) adjacent to his pulley mechanism (31), through which his cable (41) passes, as a component of his "fail-safe device for raising/lowering articles". Therefore, it would have been obvious to one of ordinary skill in the art to modify the disclosure of Daugherty with teachings of Mason and Vassioukevitch to augment the locking feature of the instant invention with the fail-safe feature of Vassioukevitch for purpose of enhanced operator safety with an eye on liability.

Claims 5, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Mason, Cargill, and Vassioukevitch, and in further view of Ward (3,158,354).

Re: Claim 5, Daugherty anticipates an angle of approximately 8 degrees between the cable extending from said cable pulling device, the pulley mechanism and the longitudinal axis of said upright support member, his angle between the mounting point on the carriage and the longitudinal axis of the upright support member is indeterminate. Neither Mason, Cargill nor Vassioukevitch discloses his angle. Ward, however, teaches his cable 60 that, though falling at a slight, undefined angle from his upper pulley mechanism 20 (Fig. 2 and angle depicted in Fig. 6), is brought "... as close as possible to the post 15..." which "...provides more directly vertical movement of the cable 60 and permits the device to be disposed more closely to the load being lifted" (Col. 4, Line 3). Therefore, to modify the disclosures of Daugherty, Mason, Cargill and Vassioukevitch with the teaching of Ward would have been obvious to one of ordinary skill in the art in order to gain better access to the object to be loaded for structural safety (reduced moment arm) and utility.

ordinary skill in the art in order to gain better access to the object to be loaded for structural safety (reduced moment arm) and utility.

Re: Claim 6, Vassioukevitch discloses a pair of opposed protrusions (34 and 33) extending from main body (15) thereby defining a channel, whereby the protrusions define the sides of the channel that receive the cable 16, an aperture passing through one of said sides (21', aperture depicted in 21") and a mating bolt (22, 24, 27) extending therethrough, the latter being positionable to permit contact with said cable and to prevent movement relative to said locking means.

Re: Claim 7, as reviewed in Claim 6, Vassioukevitch discloses an aperture passing through said main body to permit a mating bolt to extend inwardly therethrough, said main body having a first portion (upper face of 15, 21') comprising a pair of opposing protrusions forming a cable-receiving channel therein, said channel extending perpendicularly to the aperture and disposed adjacent to said aperture, an aperture passing through one of said protrusions for mounting of said protrusions, said main body having a second portion (reverse face of 15, 21") having a protrusion (22) extending inwardly through said aperture, wherein said mating bolt (22) is rotatably engaged through the pivoting of 34 to lock and unlock the cable.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Scholder (5,975,826).

Though Daugherty discloses a carriage that is detachably mounted to said upright support member and a load supporting assembly detachably attached to said carriage, the upright support member and pulley mechanism, as well as the cable pulling device, are integral to said base and upright support member, respectively. Scholder, however, teaches an upright support member (22b and 22a) detachably connected to his base (66c) by means of supports (68) as well as both his pulley mechanism (70) and cable pulling device (34) detachably connected by means of bracket (71) and threaded knob (51) to said upright support member, respectively. Therefore, it would have been obvious to one of

ordinary skill in the art to modify the disclosure of Dougherty with the teachings of Scholder, in order to provide a portable hoisting device with detachable components for purpose of disassembly and compact design to minimize space requirements in shipping and storage.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 10, 12, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, for the following reasons:

Re: Claims 9 and 19, the lack of antecedent basis for the "said individual components" which obviates the scope of the referenced claim, thereby failing to set forth the subject matter which the applicant regards as his invention.

Re: Claim 10, the claim is incomplete due to the omission of the method of assembly as stated in the preamble.

Re: Claim 12, the claim is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, i.e. inappropriate claims to a vehicle body, frame, channel and attachment site(s).

Re: Claim 20, per the review of Claim 12, the claim is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, i.e. reference to separating vehicle body from its frame.

Further to Claim 9, the devices of Claims 1 and 8 would necessarily have to be formed in order to function. It would have been obvious to perform all the assembly steps of Claim 9 when assembling the device of Daugherty as modified by Scholder above, in a usual and expected fashion, in as much as the method claims recite no limiting steps beyond connecting each of the components.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Brown et al (3,271,006).

Though Daugherty discloses the specifications unique to a single lifting devices as claimed herein under items a – h and discussed in the reviews of Claims 1 and 2, he does not address the viability of dual or opposing lifting devices or towers working in unison to lift a common load, as referenced in the preamble. Brown, however, teaches the concept of a portable service lift incorporating a pair of lifting towers (12) each having a carriage (16) working in unison with another. Therefore, it would have been obvious to one of ordinary skill in the art to modify the disclosure of Daugherty with the teachings of Brown to provide a dual-tower, portable lifting device, for the purposes of uniformly elevating objects of various dimensions and enhanced access.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Brown, and in further view of Kuhn (5,184,930).

Re: Claim 11, Though the invention of Daugherty discloses a single lifting tower, Brown teaches a dual-lifting tower apparatus having torsionally stiff members (40) extending between the bases of the first and second lift towers, said members being detachably connected to said bases (Fig. 6). Brown, however, does not teach the interconnection of the carriages of the lifting towers by means of a torsionally stiff member (other than the vehicle as depicted). Kuhn, however, teaches the use of a detachable, torsionally stiff member (122) to interconnect the carriages of the paired lifting towers, as alternative means of elevating a vehicle, in lieu of elevating the vehicle by supporting the tires. Therefore, it would have been obvious to one of ordinary skill in the art to modify the disclosure of Daugherty with the teachings of Brown and Kuhn to provide a versatile lifting means for objects of various configurations and of adequate structural integrity.

Re: Claim 13, per the review of Claim 1, Daugherty discloses diagonally disposed support members (19 and 21) oriented in a substantially vertical direction and connecting horizontal cross members with said upright support member (Fig. 1) and a cable engaging pulley device (70) attached to said mounting point on said carriage.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Brown and Kuhn, as applied to claims 11 – 13, and in further view of Kennedy et al (4,599,034).

Though Kuhn teaches a load assembly (including 38b, 60, 100, 122) on which one body attachment arm (124) is attached, he defines his attachment arm as a "vehicle body clamp assembly" found on both ends of bar (122) "...to prevent the vehicle from slipping during lifting or when in an elevated position" (Col. 4, Line 17) with "...the clamp having means for engaging the lifting point on the underside of the vehicle body..." (Col. 4, Line 68). Kennedy, however, teaches a dual-tower vehicle lift, each tower a body attachment arm (24) that use chains in conjunction with either chain tensioners, hooks or bolts (Col. 5, Line 10) to properly secure the vehicle for lifting it *and rotating it about its center of gravity*. Therefore, it would have been obvious to one of ordinary skill in the art to modify the disclosure of Daugherty with the teachings of Brown, Kuhn and Kennedy to provide a pair of lifting towers with the aforementioned means to properly secure and raise large, heavy objects, while affording the benefits of portability and compact storage.

Claims 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Brown, and Kuhn, as applied to Claims 10, 11 and 13, and in further view Cargill and Vassioukevitch.

Re: Claim 14, though neither the carriages of Daugherty, Brown and Kuhn incorporate the sleeve configuration of the instant invention, Cargill, as reviewed under Claim 4, teaches a carriage incorporating a slidable sleeve of relative

dimensions with those of the support member well within the range as claimed. Furthermore, the carriage of Cargill includes a means (120) for securing said carriage into a fixed position relative to said support member.

With respect to the locking means disposed adjacent to the pulley mechanism, again, as reviewed in Claim 4, Vassioukevitch, teaches a locking means (33,34) adjacent to his pulley mechanism (31).

Finally, as reviewed in Claim 2, Daugherty discloses a cable having two tails and a base provided with means (14S and 16S) of connecting horizontal cross members thereto, with the base including a mounting point for attachment of the cable-pulling device (52) by means of brace (58).

Therefore, to modify the disclosures of Daugherty, Brown and Kuhn with the teachings of Cargill and Vassioukevitch would have been obvious to one of ordinary skill in the art in order to offer a versatile lifting device with the safety features of Cargill and Vassioukevitch.

Re: Claim 17, as reviewed in Claims 6 and 7, Vassioukevitch discloses an aperture passing through said main body to permit a mating bolt to extend inwardly therethrough, said main body having a first portion (upper face of 15, 21') comprising a pair of opposing protrusions forming a cable-receiving channel therein, said channel extending perpendicularly to the aperture and disposed adjacent to said aperture, an aperture passing through one of said protrusions of said first portion, said main body having a second portion (reverse face of 15, 21") having a protrusion (27) extending inwardly through said aperture to permit contact with said cable, wherein said mating bolt (22) is rotatably engaged through the pivoting of 34 to lock and unlock the cable.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Brown, and Kuhn, Cargill and Vassioukevitch, per Claims 10, 11, 13, and 14, and in further view of Ward.

Though Daugherty anticipates an angle of approximately 8 degrees between the points of interest, his angle between the mounting point on the

carriage and the longitudinal axis of the upright support member is indeterminate. In that neither Brown, Kuhn, Cargill nor Vassioukevitch discloses his angle, it is Ward who, teaches his cable 60 that is brought "... as close as possible to the post..." which "...provides more directly vertical movement of the cable 60 and permits the device to be disposed more closely to the load being lifted" (Col. 4, Line 3). Furthermore, the carriage of Cargill includes a bolt (120) for securing said carriage into a fixed position relative to said support member. Therefore, to modify the disclosures of Daugherty, Brown, Kuhn, Cargill and Vassioukevitch with the teaching of Ward would have been obvious to one of ordinary skill in the art in order to offer a larger loading surface and thereby enhanced operational safety through a reduced moment arm as well as a locking means for said carriage.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daugherty in view of Brown, and in further view of Scholder.

As reviewed in Claim 8, though Daugherty discloses a carriage that is detachably mounted to said upright support member and a load supporting assembly detachably attached to said carriage, the upright support member and pulley mechanism, as well as the cable pulling device, are integral to said base and upright support member, respectively. Brown discloses similarly integral members. Scholder, however, teaches an upright support member (22b and 22a) detachably connected to his base (66c) by means of supports (68) as well as both his pulley mechanism (70) and cable pulling device (34) detachably connected by means of bracket (71) and threaded knob (51) to said upright support member, respectively. Therefore, it would have been obvious to one of ordinary skill in the art to modify the disclosures of Dougherty and Brown with the teachings of Scholder, in order to provide a portable hoisting device with detachable components for purpose of disassembly and compact design to minimize space requirements in shipping and storage.

Further to Claim 19, in addition to the aforementioned reviews under Claim Rejections 101 and 112, the devices of Claims 10 and 11 would necessarily have to be assembled in order to function. It would have been obvious to perform all the assembly steps of Claim 19 when producing the device of Daugherty as modified by Brown and Kuhn, in a usual and expected fashion, in as much as the method claims recite no limiting steps beyond connecting each of the components.

Allowable Subject Matter

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following claims contain allowable subject matter because the teachings of the prior art of record taken as a whole do not show or render obvious the combination set forth including:

Claim 16 – "... said wheels having location such that ...the longitudinal direction of said upright support member ... forms an angle of not more than 3 degrees and not less than 0.5 degree"

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harrell (5,078,364), Chamberlain (US2001/0040233), Schmiesing (3,414,087) and Shern (4,810,151) are cited for reference of: a carriage lock mechanism for a portable cable hoist, having a slightly inclined mast; a portable motorcycle hoist; an auxiliary, mobile lift apparatus having interconnecting carriages with adjustable cross members; and a door transporting and mounting machine, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F, 09:00 - 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK
9 Jan. 2006

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